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DATE MAILED: 10/02/2003

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/086,059	02/27/2002	Jose Gutierrez-Rocca	540591-7095.1	1436	
20999	7590 10/02/2003	EXAM	EXAMINER		
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL.			CRIARES, T	CRIARES, THEODORE J	
NEW YORK, NY 10151			ART UNIT	PAPER NUMBER	
	,		. 1617		

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary    Application No.   GUTIERREZ-ROCCA ET AL.							
## Derived For Action Summary  ## Derived For Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ③ MONTH(S) FROM THE MAILING DATE Of This communication appears on the cov r sh t with the correspondence address  Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ③ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Exercisions of time may be available under the provisions of 31 CPR 1.758(a). In no event, however, may a reply be timely flied.  If the priod for reply is available under the provisions of 31 CPR 1.758(a). In no event, however, may a reply be timely flied.  If the priod for reply specified above, he meantment statutory priorited will apply and wall expense SIX (b) MoXNIFS from the mailing date of this correundeation.  If the priod for reply is applied above, he meantment adulturer priorited will apply and wall expense SIX (b) MoXNIFS from the mailing date of this correundeation.  Any reply received by the Office bid term behave moraled after the mailing date of this correundeation, even if timely flied, may reduce a may exclude a may reduce		Application No.	Applicant(s)				
Theodore J. Criares   1617		10/086,059	GUTIERREZ-ROCCA ET AL.				
Period for Repty  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ② MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Exercisions of team party a evaluation under the provisions of 3 of 2FR 1.38(a). In no event, however, may a right be timely filled  Exercisions of team party as evaluation under the provisions of 3 of 2FR 1.38(a). In no event, however, may a right be timely filled  Exercisions of team party as evaluation under the provisions of 3 of 2FR 1.38(a). In no event, however, may a right be timely filled  Exercisions of team party as evaluation of the right yield of 2 of	Office Action Summary	Examiner	Art Unit				
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MALLING DATE OF THIS COMMUNICATION.  - Settentions of lines may be available under the provisions of 37 CFR 1.35(a), in no event, however, may a reply be timely filed - Settentions of lines may be available under the provisions of 37 CFR 1.35(a), in no event, however, may a reply be timely filed - Settentions of lines may be available under the provisions of 37 CFR 1.35(a), in no event, however, may a reply be timely filed - Settentions of lines may be available under the provisions of 37 CFR 1.35(a), in no event, however, may a reply be timely filed - If NO period for reply is specified above, the maximum statutory period will apply and will expire \$3X (a) MONTH'S from the mailing olde of this communication If NO period for reply is specified above, the maximum statutory period will apply and will expire \$3X (a) MONTH'S from the mailing olde of this communication Any uply received by the Office but than there monthed under the statutory under statutory in the provision of the statutory in the sta							
THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be waited used for the procision of 3 CFR 1.13(6). In no event, however, may a reply be timely filed after SX (6) MONTISE from the mailing date of this communication.  It is a provided to the process of the communication of the communication of the communication of the process of the pr							
1)  Responsive to communication(s) filed on 28 July 2003 .  2a)  This action is FINAL. 2b)  This action is non-final.  3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4)  Claim(s) 1-15 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5)  Claim(s) 9.10 and 12-15 is/are allowed.  6)  Claim(s) is/are rejected.  7)  Claim(s) are subject to restriction and/or election requirement.  Application Papers  9)  The specification is objected to by the Examiner.  10)  The drawing(s) filed on is/are: a)  accepted or b⟩ objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11)  The proposed drawing correction filed on is: a)  approved b⟩ disapproved by the Examiner.  If approved, corrected drawings are required in reply to this Office action.  12)  The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. § 119 and 120  13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a)  All b⟩ Some *c⟩ None of:  1.  Certified copies of the priority documents have been received in Application No  3.  Copies of the certified copies of the priority documents have been received in Application No  3.  Copies of the certified copies of the priority documents have been received in Application No  3.  Copies of the certified copies of the priority documents have been received in Application No  4)  The translation of the foreign language provisional application has been received.  14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)  Notice of Informal Patent Application (PTO-152)	<ul> <li>THE MAILING DATE OF THIS COMMUNICATION.</li> <li>Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul>						
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Application/Control Number: 10/086,059

Art Unit: 1617

## **CLAIMS 1-15 ARE PRESENTED FOR EXAMINATION**

## **DETAILED ACTION**

The requirement for restriction is withdrawn in view of applicant's persuasive arguments submitted in the papers received July 28, 2003.

## **OBJECTIONS**

Claims 3-4 and 6-8 objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 1 and 5 recite a limitation of active agents as 80 weight percent of polyvinyl acetate combined with about 20 percent weight percent polyvinyl pyrrolidone. Claims 3-4 and 6-8 are not further limiting since they increase the ranges of from about 20 weight percent to about 90 weight percent of polyvinyl acetate and from about 2 weight percent to 60 weight percent of polyvinyl pyrrolidone. Claims 2-4 and 6-8 do not further limit claims 1 and 5.

Claims 5-8 and 11 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 1-4 since the preamble of claims 5-8 to a "pharmaceutical construct" is not a patentable feature differing from a "pharmaceutical" composition". The agents in both instances are the same agents after the key term "comprising". When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Application/Control Number: 10/086,059

Art Unit: 1617

Claims 1, 9, 10 and 12-15 are allowable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theodore J. Criares whose telephone number is 308-4607. The examiner can normally be reached on 6:30 A.M. to 5:00P.M. Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreenivasan Padmanabhan can be reached on 305-1877. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1235.

Theodore J. Criares Primary Examiner Art Unit 1617

9/28/03 tjc